

970.0404-2

foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communication security programs.

Facility Clearance means an administrative determination that a facility is eligible to access, produce, use or store classified information or special nuclear material.

Restricted Data means all data concerning design, manufacture, or utilization of atomic weapons; the production of special nuclear material; or the use of special nuclear material in the production of energy; but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2162).

[65 FR 81009, Dec. 22, 2000, as amended at 67 FR 14878, Mar. 28, 2002]

970.0404-2 General.

(a) Guidance regarding the National Industrial Security Program as implemented by the Department of Energy may be found at 904.4, Safeguarding Classified Information Within Industry. Additional information concerning contractor ownership when national security or atomic energy information is involved may be found at 904.70. Information regarding contractor ownership involving national security program contracts may be found at 904.71.

(b) Executive Order 12333, United States Intelligence Activities, provides for the organization and control of United States foreign intelligence and counterintelligence activities. DOE has established a counterintelligence program subject to this Executive Order which is described in DOE Order 5670.3 (as amended). All DOE elements, including management and operating contractors and other contractors managing DOE-owned facilities which require access authorizations, should undertake the necessary precautions to ensure that DOE and covered Contractor personnel, programs and resources are properly protected from foreign intelligence threats and activities.

[67 FR 14878, Mar. 28, 2002]

48 CFR Ch. 9 (10-1-02 Edition)

970.0404-3 Responsibilities of contracting officers.

(a) Management and operating contracts which may require the processing or storage of Restricted Data or Special Nuclear Material require application of the applicable DOE Directives in the safeguards and security series.

(b) The contracting officer shall refer to 48 CFR 904.71 for guidance concerning the prohibition on award of a DOE contract under a national security program to a company owned by an entity controlled by a foreign government when access to proscribed information is required to perform the contract.

[65 FR 81009, Dec. 22, 2000, as amended at 67 FR 14878, Mar. 28, 2002]

970.0404-4 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 970.5204-1, Counterintelligence, into all management and operating contracts and other contracts for the management of DOE-owned facilities which include the security and classification/declassification clauses.

(b) The contracting officer shall refer to 48 CFR 904.404 and 48 CFR 904.7103 for the prescription of solicitation provisions and contract clauses relating to safeguarding classified information and foreign ownership, control, or influence over contractors.

970.0407 Contractor records retention.

970.0407-1 Applicability.

970.0407-1-1 Alternate retention schedules.

Records produced under the Department's contracts involving management and operation responsibilities relative to DOE-owned or -leased facilities are to be retained and disposed of in accordance with the guidance contained in DOE G 1324.5B, Records Management Program and DOE Records Schedules (see current version), rather than those set forth at 48 CFR subpart 4.7, Contractor Records Retention.